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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/582,477      | 09/29/2000  | Renke Bienert        | 764-00897           | 3399             |

128 7590 03/30/2004

HONEYWELL INTERNATIONAL INC.  
101 COLUMBIA ROAD  
P O BOX 2245  
MORRISTOWN, NJ 07962-2245

EXAMINER

NGUYEN, TU X

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2684

DATE MAILED: 03/30/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/582,477

Applicant(s)

BIENERT ET AL.

Examiner

Tu X Nguyen

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's arguments, filed 2/20/04 with respect to claims 1 and 11-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 11-20, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter "data packets" which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed 9/29/00, had possession of the claimed invention.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 6 and 8, are rejected under 35 U.S.C. 103(a) as being unpatentable over McNair et al. in view of Hooper et al. (US Patent 5,734,980).

Regarding claims 1, 3 and 8, McNair et al. disclose a management system for a building or for one or more rooms in a building (see col.5 lines 1-40), having at least one control center and at least two components connected to the control center by radio, the control center receiving signals from the components or transmitting signals to the components (see fig.14 and col.7 lines 40-60).

McNair et al. further disclose the signals being transmitted within a prescribed range (54), wherein the signals are transmitted at least two different frequencies within the frequency range (54), at least one of these frequencies being outside the partial frequency range (55) of the frequency range (54), (see fig.3) which reads on the above limitation with broadest reasonable interpretation, i.e., channels 1 and 2 are defined in one group or range and channel 3 is another frequency group or range.

McNair et al. fail to disclose a portion of the frequency range is more commonly used than other portion of the frequency range by devices.

Hooper et al. disclose a portion of the frequency range is more commonly used than other portion of the frequency range by devices (see col.1 lines 22-24, col.1 lines 54-55). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of McNair et al. with the above teaching of Hooper et al. in order to provide a device that is programmed with a default frequency to use with local system.

Regarding claims 2, 6, McNair et al. disclose the signals are transmitted in a temporally offset fashion at at least two different frequencies (see fig.3), the examiner interprets "frequency hopping" corresponds to "temporally offset".

6. Claims 4-5, 7 and 9-10, are rejected under 35 U.S.C. 103(a) as being unpatentable over McNair et al., in view of Hooper et al. and further in view of Bartel et al. (US Patent 5,898,230).

Regarding claims 4, 5 and 10, the modified McNair et al. fail to disclose the frequency range in particular an ISM band, wherein the frequency range is between 433 MHZ and 434.79 MHZ.

Bartel et al. disclose the frequency range in particular an ISM band, wherein the frequency range is between 433 MHZ and 434.79 MHZ (see abstract). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of the modified McNair et al. with the above teaching of Bartel et al. in order to provide communication to be carried out in both a long distance and a close communication mode and where a variety of different signals are used.

Regarding claims 7 and 9, the modified McNair et al. disclose the frequency band is divided in any N channels and the switching interval is greater than a duration of communication protocol (see col.2 line 36 through col.3 line 19 and col.4 lines 45-59) reads on with reasonable broadest interpretation of channel width is 50 KHZ and scanning at a step interval of 10KHZ.

Art Unit: 2684

### Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is (703) 305-3427. The examiner can normally be reached on Monday through Friday from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MAUNG NAY A, can be reached at (703) 308-7749.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 2600 Customer Service Office at (703) 306-0377.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

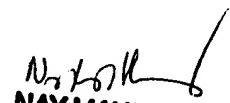
**or faxed to:**

(703) 872-9314 (Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

TN

March 19, 2004

  
NAY MAUNG  
SUPERVISORY PATENT EXAMINER